

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

IRENE SALCIDO a.k.a. IRENE VAZQUEZ,
IRENE GAMBINO, IRENE GOMEZ, and
IRENE BANDERA,

Defendant,

MEMORANDUM DECISION AND
ORDER DENYING MOTION FOR
REDUCTION OR MODIFICATION
OF SENTENCE UNDER RULE 35(b)

Case No. 2:05 CR 00354 DB

On May 21, 2007, defendant Irene Salcido filed a Motion for Reduction or Modification of Sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure. As grounds for her motion, defendant asserts that she is not receiving proper medical care to treat her asthma, and that her children and family need her at home. On June 5, 2007, the government filed its response to defendant's motion. The time having expired for defendant to file a reply to the government's response, the Court now issues the following Memorandum Decision and Order.

Rule 35(b) of the Federal Rules of Criminal Procedure, which sets out the proper procedure for "Correcting or Reducing a Sentence," applies only to requests made by the

government. Fed. R. Crim. P. (b)(1) & (2) (providing that “[u]pon the government’s motion” the court may reduce a sentence, subject to varying time constraints, if, after sentencing, the defendant provided substantial assistance and the reduction accords with the Sentencing Commission’s guidelines and policy statements). As such, Rule 35(b) does not apply to requests made by defendants.

Moreover, even if defendant could use Rule 35(b) to request a modification or reduction of her sentence, the defendant has failed to articulate any reasons that would justify a modification or reduction under the provisions outlined in the rule. Although defendant’s children and family might need her at home and she does not believe she is receiving the proper medical care, these reasons are insufficient as Rule 35(b) is directed to sentence reductions based on substantial assistance.

For the foregoing reasons, defendant’s motion is DENIED.

Dated this 12th day of July, 2007.

A handwritten signature in black ink that reads "Dee Benson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dee Benson
United States District Court Judge